

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**ROBERT GORDON,**

Plaintiff,

V.

**BANK OF AMERICA CORPORATION  
AND GREEN TREE SERVICING, LLC**  
*as Trustee of CWABS Asset-Backed  
Certificates Trust 205-7,*

Defendants.

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Civil Action No. **3:15-CV-902-L**

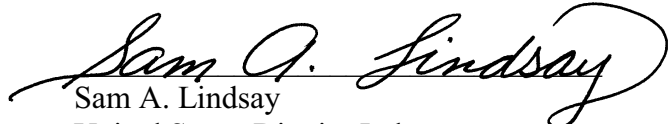
## ORDER

On August 5, 2015, Magistrate Judge David L. Horan entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) recommending that the court grant in part and deny in part Defendant Bank of America Corporation’s Motion to Dismiss Plaintiff Robert Gordon’s Complaint (Doc. 5), filed March 30, 2015; and grant in part and deny in part Defendant Green Tree Servicing LLC’s Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim (Doc. 6), filed March 30, 2015. The magistrate judge also recommended that the court deny Plaintiff’s request to replead the claims subject to dismissal. No objections were filed to the Report.

Having reviewed the motions, briefs, pleadings, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **grants in part and denies in part** Defendant Bank of America Corporation's Motion to Dismiss Plaintiff Robert Gordon's Complaint (Doc. 5) and Defendant Green Tree Servicing LLC's Rule 12(b)(6) Motion to Dismiss for Failure to State a Claim (Doc. 6). Specifically, Defendants' motions are **granted** with respect

to Plaintiff's claims based on alleged violations of the Texas Deceptive Practices Act and Texas Property Code and promissory estoppel, which the court **dismisses with prejudice**. Defendants' motions are **denied** with respect to Plaintiff's claims for common law fraud; negligent misrepresentation; and (as to Bank of America only) negligent hiring, supervision, and management.\* Plaintiff's request to replead any dismissed claims is **denied** because these claims fail as a matter of law, and the court concludes that any attempt at repleading them would be futile and unnecessarily delay the litigation.

**It is so ordered** this 5th day of October, 2015.

  
Sam A. Lindsay  
United States District Judge

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\* According to the Report, Defendant Green Tree also moved to dismiss Plaintiff's negligent hiring and supervision claim, although Plaintiff only asserted this claim against Bank of America. Accordingly, the court agrees with the magistrate judge and **denies as moot** Green Tree's motion to dismiss on this ground.